0014

File

STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Dianne R. Nielson, Ph.D., Division Director

355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

February 26, 1988

CERTIFIED RETURN RECEIPT REQUESTED
P 001 717 772

Mr. Sam Quigley
Andalex Resources Inc.
P. O. Box 902
Price, Utah 84501

Dear Mr. Quigley:

Re: Finalized Assessment for State Violation No. N87-9-8-2, ACT/007/019, Folder #5, Carbon County, Utah

The civil penalty for the above-referenced violation has been finalized. This assessment has been finalized as a result of a review of all pertinent data and facts including those presented in the assessment conference by you or your representative and the Division of Oil, Gas and Mining inspector.

Within fifteen (15) days of your receipt of this letter, you or your agent may make a written appeal to the Board of Oil, Gas and Mining. To do so, you must have escrowed the assessed civil penalty with the Division within a maximum of thirty (30) days of receipt of this letter, but in all cases prior to the Board Hearing. Failure to comply with this requirement will result in a waiver of your right of further recourse.

If no timely appeal is made, this assessed civil penalty must be tendered within thirty (30) days of your receipt of this letter. Please remit payment to the Division, mail % Vicki Bailey at the address listed above.

Thank you for your cooperation.

Sincerely,

Barbara W. Roberts

Barbara W. Roberts
Assessment Conference Officer

re
cc: John C. Kathmann, OSM AFO

WORKSHEET FOR FINAL ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Andalex/Centennial Project NOV # N87-9-8-2

PERMIT # ACT/007/019 VIOLATION 1 OF 2

Assessment Date 2-11-88 Assessment Officer Barbara W. Roberts

Nature of violation: Failure to maintain drainge culverts in a manner which avoids plugging or collapse and erosion at inlets and outlets. Failure to maintain a diversion in a manner which prevents additional contribution of suspended solids to streamflow and runoff outside permit area.

Date of termination: 9-19-87

	Proposed Assessment	Final Assessment
(1) History/Prev. Vio.	0	0
(2) Seriousness		
(a) Probability of Occurrence	12	12
Extent of Damage	7	2
(b) Hindrance to Enforcement		
(3) Negligence	18	13
(4) Good Faith		- 10
TOTAL	37	17
	TOTAL ASSESSED FINE	$ 170

3. Narrative:
(Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

Damage points reduced to reflect the negligible on-site damage potential. Negligence points reduced to ordinary negligence. Good faith awarded for a rapid compliance with an easy abatement situation.

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WORKSHEET FOR FINAL ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Andalex/Centennial Project NOV # N87-9-8-2

PERMIT # ACT/007/019 VIOLATION 2 OF 2

Assessment Date _____ Assessment Officer Barbara W. Roberts

Nature of violation: Failure to protect stockpiled materials (topsoil) from water erosion and contaminants.

Date of termination: 10-30-87

	Proposed Assessment	Final Assessment
(1) History/Prev. Vio.	0	N/A
(2) Seriousness		
(a) Probability of Occurrence	20	
Extent of Damage	10	
(b) Hindrance to Enforcement		
(3) Negligence	18	
(4) Good Faith	0	
TOTAL	48	
	TOTAL ASSESSED FINE	$

3. Narrative:
(Brief explanation for any changes made in assignment of points and any additional information that was available after the proposed assessment.)

This NOV is vacated for the reason that the operator did not violate the cited rule, UMC 817.23. First, the approved site for storage of the stockpiled soil substitute is a former sediment pond and, as such, tends to collect water within the depression. The storm which resulted in runoff contacting the stockpiled material was, most likely, an event which exceeded the design event. As a consequence the approved straw bale dike protecting the stockpiled material was not sufficiently high to check the rising water. As a matter of law, I find that the operator met the requirements of the rules and statute.

Secondly, there was no evidence presented showing actual erosion of the material and, therefore, erosion is not an issue. On the subject of

contamination, the stockpile is the embankment of the former sediment pond and is now designated as a topsoil substitute. The water overtopping the straw dike was likely to be of the same quality as that which had entered the area during its tenure as a sediment pond. The Division has agreed that the years of contact with similar runoff has not rendered the embankment unfit to qualify as a topsoil substitute and, therefore, this one contact, absent of any specific evidence of contaminants, would not serve to contaminate the material.

I find, then, that the runoff which overtopped the straw bale dike did not contaminate the stockpiled material. This is not to say that any future occurrences of runoff reaching this stockpile would necessarily result in a finding of no contamination especially if the Division can show that specific contaminants were present and that the one-time contact or the accumulation of a contaminant would result in a reduced revegetation capacity (e.g. deposition of coal fines, oil and grease, presence of heavy metals, etc.) thus violating the provisions of UMC 817.23.